

# HOUSE BILL No. 1303

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 6-1.1-24.

**Synopsis:** Exemption of certain real property from tax sales. Provides that: (1) real property (other than real property classified as industrial property under the rules of the department of local government finance) may not be sold at a tax sale after June 30, 2009, and before July 1, 2010; and (2) penalties and costs relating to the tax sale are not due on the real property; if all delinquent taxes and special assessments on the real property are paid before the tax sale.

**Effective:** Upon passage.

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**Smith V, Dobis**

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January 13, 2009, read first time and referred to Committee on Ways and Means.

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First Regular Session 116th General Assembly (2009)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2008 Regular Session of the General Assembly.

## HOUSE BILL No. 1303

A BILL FOR AN ACT to amend the Indiana Code concerning taxation.

*Be it enacted by the General Assembly of the State of Indiana:*

- 1 SECTION 1. IC 6-1.1-24-2, AS AMENDED BY P.L.146-2008,  
2 SECTION 258, IS AMENDED TO READ AS FOLLOWS  
3 [EFFECTIVE UPON PASSAGE]: Sec. 2. (a) In addition to the  
4 delinquency list required under section 1 of this chapter, each county  
5 auditor shall prepare a notice. The notice shall contain the following:  
6 (1) A list of tracts or real property eligible for sale under this  
7 chapter.  
8 (2) A statement that the tracts or real property included in the list  
9 will be sold at public auction to the highest bidder, subject to the  
10 right of redemption.  
11 (3) A statement that the tracts or real property will not be sold for  
12 an amount which is less than the sum of:  
13 (A) the delinquent taxes and special assessments on each tract  
14 or item of real property;  
15 (B) the taxes and special assessments on each tract or item of  
16 real property that are due and payable in the year of the sale,  
17 whether or not they are delinquent;



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- 1 (C) all penalties due on the delinquencies;  
 2 (D) an amount prescribed by the county auditor that equals the  
 3 sum of:  
 4 (i) the greater of twenty-five dollars (\$25) or postage and  
 5 publication costs; and  
 6 (ii) any other actual costs incurred by the county that are  
 7 directly attributable to the tax sale; and  
 8 (E) any unpaid costs due under subsection (b) from a prior tax  
 9 sale.  
 10 (4) A statement that a person redeeming each tract or item of real  
 11 property after the sale must pay:  
 12 (A) one hundred ten percent (110%) of the amount of the  
 13 minimum bid for which the tract or item of real property was  
 14 offered at the time of sale if the tract or item of real property  
 15 is redeemed not more than six (6) months after the date of  
 16 sale;  
 17 (B) one hundred fifteen percent (115%) of the amount of the  
 18 minimum bid for which the tract or item of real property was  
 19 offered at the time of sale if the tract or item of real property  
 20 is redeemed more than six (6) months after the date of sale;  
 21 (C) the amount by which the purchase price exceeds the  
 22 minimum bid on the tract or item of real property plus ten  
 23 percent (10%) per annum on the amount by which the  
 24 purchase price exceeds the minimum bid; and  
 25 (D) all taxes and special assessments on the tract or item of  
 26 real property paid by the purchaser after the tax sale plus  
 27 interest at the rate of ten percent (10%) per annum on the  
 28 amount of taxes and special assessments paid by the purchaser  
 29 on the redeemed property.  
 30 (5) A statement for informational purposes only, of the location  
 31 of each tract or item of real property by key number, if any, and  
 32 street address, if any, or a common description of the property  
 33 other than a legal description. The township assessor, or the  
 34 county assessor if there is no township assessor for the township,  
 35 upon written request from the county auditor, shall provide the  
 36 information to be in the notice required by this subsection. A  
 37 misstatement in the key number or street address does not  
 38 invalidate an otherwise valid sale.  
 39 (6) A statement that the county does not warrant the accuracy of  
 40 the street address or common description of the property.  
 41 (7) A statement indicating:  
 42 (A) the name of the owner of each tract or item of real

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- property with a single owner; or
- (B) the name of at least one (1) of the owners of each tract or item of real property with multiple owners.
- (8) A statement of the procedure to be followed for obtaining or objecting to a judgment and order of sale, that must include the following:
- (A) A statement:
- (i) that the county auditor and county treasurer will apply on or after a date designated in the notice for a court judgment against the tracts or real property for an amount that is not less than the amount set under subdivision (3), and for an order to sell the tracts or real property at public auction to the highest bidder, subject to the right of redemption; and
  - (ii) indicating the date when the period of redemption specified in IC 6-1.1-25-4 will expire.
- (B) A statement that any defense to the application for judgment must be:
- (i) filed with the court; and
  - (ii) served on the county auditor and the county treasurer; before the date designated as the earliest date on which the application for judgment may be filed.
- (C) A statement that the county auditor and the county treasurer are entitled to receive all pleadings, motions, petitions, and other filings related to the defense to the application for judgment.
- (D) A statement that the court will set a date for a hearing at least seven (7) days before the advertised date and that the court will determine any defenses to the application for judgment at the hearing.
- (9) A statement that the sale will be conducted at a place designated in the notice and that the sale will continue until all tracts and real property have been offered for sale.
- (10) A statement that the sale will take place at the times and dates designated in the notice. Whenever the public auction is to be conducted as an electronic sale, the notice must include a statement indicating that the public auction will be conducted as an electronic sale and a description of the procedures that must be followed to participate in the electronic sale.
- (11) A statement that a person redeeming each tract or item after the sale must pay the costs described in IC 6-1.1-25-2(e).
- (12) If a county auditor and county treasurer have entered into an agreement under IC 6-1.1-25-4.7, a statement that the county

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auditor will perform the duties of the notification and title search under IC 6-1.1-25-4.5 and the notification and petition to the court for the tax deed under IC 6-1.1-25-4.6.

(13) A statement that, if the tract or item of real property is sold for an amount more than the minimum bid and the property is not redeemed, the owner of record of the tract or item of real property who is divested of ownership at the time the tax deed is issued may have a right to the tax sale surplus.

(14) If a determination has been made under subsection (d), a statement that tracts or items will be sold together.

**(15) With respect to a tract or an item of real property (other than real property classified as industrial property under the rules of the department of local government finance) subject to sale under this chapter after June 30, 2009, and before July 1, 2010, an explanation of the option for removal of the tract or item of real property from the tax sale under section 5(j) of this chapter.**

(b) If within sixty (60) days before the date of the tax sale the county incurs costs set under subsection (a)(3)(D) and those costs are not paid, the county auditor shall enter the amount of costs that remain unpaid upon the tax duplicate of the property for which the costs were set. The county treasurer shall mail notice of unpaid costs entered upon a tax duplicate under this subsection to the owner of the property identified in the tax duplicate.

(c) The amount of unpaid costs entered upon a tax duplicate under subsection (b) must be paid no later than the date upon which the next installment of real estate taxes for the property is due. Unpaid costs entered upon a tax duplicate under subsection (b) are a lien against the property described in the tax duplicate, and amounts remaining unpaid on the date the next installment of real estate taxes is due may be collected in the same manner that delinquent property taxes are collected.

(d) The county auditor and county treasurer may establish the condition that a tract or item will be sold and may be redeemed under this chapter only if the tract or item is sold or redeemed together with one (1) or more other tracts or items. Property may be sold together only if the tract or item is owned by the same person.

SECTION 2. IC 6-1.1-24-4, AS AMENDED BY P.L.89-2007, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. (a) Not less than twenty-one (21) days before the earliest date on which the application for judgment and order for sale of real property eligible for sale may be made, the county

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auditor shall send a notice of the sale by certified mail, return receipt requested, to:

- (1) the owner of record of real property with a single owner; or
- (2) at least one (1) of the owners, as of the date of certification, of real property with multiple owners;

at the last address of the owner for the property as indicated in the records of the county auditor on the date that the tax sale list is certified. In addition, the county auditor shall mail a duplicate notice to the owner of record, as described in subdivisions (1) and (2), by first class mail to the owners from whom the certified mail return receipt was not signed and returned. Additionally, the county auditor may determine that mailing a first class notice to or serving a notice on the property is a reasonable step to notify the owner, if the address of the owner is not the same address as the physical location of the property. If both notices are returned due to incorrect or insufficient addresses, the county auditor shall research the county auditor records to determine a more complete or accurate address. If a more complete or accurate address is found, the county auditor shall resend the notices to the address that is found in accordance with this section. Failure to obtain a more complete or accurate address does not invalidate an otherwise valid sale. The county auditor shall prepare the notice in the form prescribed by the state board of accounts. The notice must set forth the key number, if any, of the real property and a street address, if any, or other common description of the property other than a legal description. The notice must include the statement set forth in section 2(a)(4) of this chapter. **With respect to a tract or an item of real property (other than real property classified as industrial property under the rules of the department of local government finance) subject to sale under this chapter after June 30, 2009, and before July 1, 2010, the notice must include an explanation of the option for removal of the tract or item of real property from the tax sale under section 5(j) of this chapter.** The county auditor must present proof of this mailing to the court along with the application for judgment and order for sale. Failure by an owner to receive or accept the notice required by this section does not affect the validity of the judgment and order. The owner of real property shall notify the county auditor of the owner's correct address. The notice required under this section is considered sufficient if the notice is mailed to the address or addresses required by this section.

(b) In addition to the notice required under subsection (a) for real property on the list prepared under section 1(a)(2) or 1.5(d) of this chapter, the county auditor shall prepare and mail the notice required

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under section 2.2 of this chapter no later than forty-five (45) days after the county auditor receives the certified list from the county treasurer under section 1(a) of this chapter.

(c) On or before the day of sale, the county auditor shall list, on the tax sale record required by IC 6-1.1-25-8, all properties that will be offered for sale.

SECTION 3. IC 6-1.1-24-5, AS AMENDED BY P.L.89-2007, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. (a) When a tract or an item of real property is subject to sale under this chapter, it must be sold in compliance with this section.

(b) The sale must:

- (1) be held at the times and place stated in the notice of sale; and
- (2) not extend beyond one hundred seventy-one (171) days after the list containing the tract or item of real property is certified to the county auditor.

(c) A tract or an item of real property may not be sold under this chapter to collect:

- (1) delinquent personal property taxes; or
- (2) taxes or special assessments which are chargeable to other real property.

(d) **Subject to subsection (j)**, a tract or an item of real property may not be sold under this chapter if all the delinquent taxes, penalties, and special assessments on the tract or an item of real property and the amount prescribed by section 2(a)(3)(D) of this chapter, reflecting the costs incurred by the county due to the sale, are paid before the time of sale.

(e) The county treasurer shall sell the tract or real property, subject to the right of redemption, to the highest bidder at public auction. However, a tract or an item of real property may not be sold for an amount which is less than the sum of:

- (1) the delinquent taxes and special assessments on each tract or item of real property;
- (2) the taxes and special assessments on each tract or item of real property that are due and payable in the year of the sale, regardless of whether the taxes and special assessments are delinquent;
- (3) all penalties which are due on the delinquencies;
- (4) the amount prescribed by section 2(a)(3)(D) of this chapter reflecting the costs incurred by the county due to the sale;
- (5) any unpaid costs which are due under section 2(b) of this chapter from a prior tax sale; and

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(6) other reasonable expenses of collection, including title search expenses, uniform commercial code expenses, and reasonable attorney's fees incurred by the date of the sale.

(f) For purposes of the sale, it is not necessary for the county treasurer to first attempt to collect the real property taxes or special assessments out of the personal property of the owner of the tract or real property.

(g) The county auditor shall serve as the clerk of the sale.

(h) Real property certified to the county auditor under section 1(a)(2) of this chapter must be offered for sale in a different phase of the tax sale or on a different day of the tax sale than the phase or day during which other real property is offered for sale.

(i) The public auction required under subsection (e) may be conducted by electronic means, at the option of the county treasurer. The electronic sale must comply with the other statutory requirements of this section. If an electronic sale is conducted under this subsection, the county treasurer shall provide access to the electronic sale by providing computer terminals open to the public at a designated location. A county treasurer who elects to conduct an electronic sale may receive electronic payments and establish rules necessary to secure the payments in a timely fashion. The county treasurer may not add an additional cost of sale charge to a parcel for the purpose of conducting the electronic sale.

**(j) With respect to a tract or an item of real property (other than real property classified as industrial property under the rules of the department of local government finance) subject to sale under this chapter after June 30, 2009, and before July 1, 2010, if all the delinquent taxes and special assessments on the tract or item of real property are paid before the time of sale:**

**(1) the tract or item of real property may not be sold in the sale under this chapter; and**

**(2) the obligation under subsection (d) for payment of the following that would otherwise apply is canceled:**

**(A) Penalties that accrued as the result of the delinquency in the payment of taxes or special assessments.**

**(B) The amounts described in section 2(a)(3)(D) and 2(a)(3)(E) of this chapter.**

**SECTION 4. An emergency is declared for this act.**

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